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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,596

08/24/2006

Kunio Gobara

MAT-8894US

8964

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09/28/2011

RATNERPRESTIA

P.O. BOX 980

VALLEY FORGE, PA 19482

EXAMINER

ROBERTS, BRIAN S

ART UNIT

PAPER NUMBER

2466

MAIL DATE

DELIVERY MODE

09/28/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,596	<b>Applicant(s)</b> GOBARA ET AL.	
	<b>Examiner</b> BRIAN ROBERTS	<b>Art Unit</b> 2466	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 1,2,4-7,9,11 and 13-16 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-2, 4-7, 9, 11, and 13-16 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

- Claims 1-2, 4-7, 9, 11, and 13-16 remain pending.

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/23/2010 has been entered.

### ***Claim Objections***

Claims 1, 7, 11, and 13 are objected to because of the following informalities:

- Claim 1 line 8-9 "bubble packet transmitted" should read --bubble packet to be transmitted--
- Claim 7 line 3 "TTL (Time To Live)" should read --Time To Live (TTL)--
- Claim 11 line 8 "bubble packet transmitted" should read --bubble packet to be transmitted--
- Claim 13 line 6 "which the bubble packet" should read --which a bubble packet--

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2, 4-7, 9, 11, and 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In reference to claim 1

Claim limitation “a span of packet life setting part that sets a span of packet life of a bubble packet transmitted from the information-processing device at the communication source ..... based on the number of relay nodes counted by the relay node counter” has been interpreted under 35 U.S.C. 112, sixth paragraph, because it uses a non-structural term “part” coupled with functional language “that sets a span of packet life of a bubble packet transmitted from the information-processing device at the communication source” without reciting sufficient structure to achieve the function. While the non-structural term “part” is preceded by the modifier “span of packet life setting”, the modifier is not a structural modifier.

Since this claim limitation invokes 35 U.S.C. 112, sixth paragraph, claim 1 is interpreted to cover the corresponding structure described in the specification that achieves the claimed function, and equivalents thereof.

A review of the specification shows that the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform

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the claimed function. The Examiner assumes that the claims element is a computer-implemented means-plus-function limitation that invokes 35 U.S.C. 112, sixth paragraph. For a computer-implemented means-plus-function limitation that invokes 35 U.S.C. 112, sixth paragraph, the corresponding structure must be a general purpose computer or microprocessor and the algorithm that transforms the general purpose computer or microprocessor to a special purpose computer programmed to perform the disclosed algorithm that performs the claimed function. In the instant case, the algorithm corresponding to the claimed function is unclear.

Applicant may:

- (a) Amend the claim so that the claim limitation will no longer be interpreted as a limitation under 35 U.S.C. 112, sixth paragraph; or
- (b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or
- (c) State on the record where the corresponding structure, material, or acts are set forth in the written description of the specification and linked or associated to the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

Note: The Examiner recommends overcoming the rejection by amending "span of packet life setting part" to --processor--.

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The language "wherein the information-processing device at the communication source receives the reply packet from the information-processing device at the communication destination via the opened port of the communication control device at the communication source" in lines 21-24 renders the claim indefinite because the language describes the function or operation of the information-device at the communication source instead of defining the structure that makes up the device as required by 35 U.S.C. 112, second paragraph. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device.

- In reference to claim 11

The limitation "transmitting a bubble packet that transmits the bubble packet" in line 14 renders the claim indefinite because the limitation is unclear, confusing, and does not make grammatical sense. For the purpose of Examination, the Examiner assumes the limitation should read -- transmitting the bubble packet--

- In reference to claims 2, 4-7, 9, and 13-16

Claims 2, 4-7, 9, and 13-16 are rejected because they depend on a rejected independent claim.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN ROBERTS whose telephone number is (571)272-3095. The examiner can normally be reached on M-F 10:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DANIEL RYMAN can be reached on (571) 272-3152. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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